

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

BRENDA M. JOHNSON,

Plaintiff,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

CASE NO. 3:20-cv-06031-RJB

REPORT AND  
RECOMMENDATION

NOTE FOR: December 25, 2020

The District Court has referred plaintiff's application to proceed *in forma pauperis* in this 42 U.S.C. § 1983 civil rights action to United States Magistrate Judge J. Richard Creatura. *See* Dkt. 1. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B) and Magistrate Judge Rules MJR3 and MJR4.

This matter is before the Court on the undersigned's Order to Show Cause or Amend Proposed Complaint. *See* Dkt. 4. Plaintiff, proceeding *pro se*, has not responded to the Court's order, despite that the deadline to do so was on November 30, 2020 (Dkt. 4, at 10), and despite

1 that plaintiff subsequently filed numerous unrelated proposed motions, including a proposed  
2 motion for voluntary recusal of Judge Bryan (Dkt. 6). *See* Dkts. 6, 7, 8, 9.

3 Because plaintiff failed to timely respond to the Court’s order to show cause (Dkt. 4), the  
4 undersigned recommends denying plaintiff’s *in forma pauperis* application (Dkt. 1), dismissing  
5 this action without prejudice, and striking the pending motions from the docket. Dkts. 7, 8, 9.

### 6 DISCUSSION

7 In her proposed complaint, plaintiff alleges that her former employers, defendants  
8 Electronic Transaction Consultants LLC (“ETC”), Washington Department of Transportation  
9 (“WDOT”), and Washington Office of Administrative Hearings, retaliated against her by  
10 terminating her employment after she complained about discriminatory and harassing conduct.  
11 *See* Dkt. 1-1, at 2–3. Plaintiff alleges that these defendants’ actions constitute violations of the  
12 Seventh and Fourteenth Amendments; Title VII of the Civil Rights Act of 1964, 42 U.S.C. §  
13 2000e *et seq.*; and the Equal Pay Act, 29 U.S.C. § 206(d). *See id.* at 1, 4–6. Plaintiff further  
14 alleges that these defendants failed to disclose and/or comply with a contractual agreement and  
15 acted negligently in terminating her employment. *Id.* at 4, 6.

16 Separately, plaintiff alleges that defendants Washington Department of Social and Health  
17 Services (“DSHS”) and Washington Department of Child Support wrongfully terminated her  
18 HEN benefits. *See* Dkt. 1-1, at 4. Plaintiff alleges that these defendants’ actions violated her  
19 constitutional rights by denying her benefits. *See id.*

20 Plaintiff further alleges that defendant Travelers Insurance attempted to “coerce” plaintiff  
21 into accepting “an offer” following plaintiff’s involvement in a car accident on March 23, 2020.  
22 Dkt. 1-1, at 4, 8. Plaintiff does not identify any specific claim or harm related to these  
23 allegations.  
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1 Finally, plaintiff alleges that defendants collectively held her captive at her home,  
2 unlawfully entered her home, and took her personal property. *See* Dkt. 1-1, at 5. Based on this  
3 conduct, plaintiff alleges a number of unspecified housing violations and a constitutional  
4 deprivation based on seizure of property without due process. *See id.*

5 On October 30, 2020, the Court ordered plaintiff to amend her proposed complaint on the  
6 basis that she failed to state any claim upon which relief can be granted. *See* Dkt. 4.  
7 Specifically, the Court stated that plaintiff's claims against defendants ETC, WDOT, and the  
8 Office of Administrative Hearings are barred because these claims were already dismissed with  
9 prejudice, are currently pending before another District Court Judge, or are time-barred. *See id.*  
10 at 5–6. The Court further stated that plaintiff failed to allege sufficient facts or to identify any  
11 constitutional or federal statutory violation allegedly committed by defendants Pioneer Human  
12 Services, Catholic Community Services, Emerald Queen Casino, Travelers Insurance, and  
13 Amazon. *See id.* at 6–7. The Court further stated that plaintiff failed to state a claim against  
14 defendants DSHS, Washington Department of Child Support, Tacoma Police, or Terry Lee  
15 Rembert because 42 U.S.C. § 1983 does not allow suits for damages against departments of State  
16 or State employees acting in their official capacities. *See id.* at 7–8. Finally, the Court stated  
17 that plaintiff failed to state a claim against defendants Patrick Sherwood, the United States of  
18 America, the United States Department of Transportation, and the United States Department of  
19 Justice because these defendants are not subject to suit under *Bivens v. Six Unknown Named*  
20 *Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). *See id.* at 8–9.

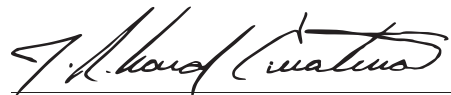
21 The Court warned plaintiff that if she failed to amend her proposed complaint or  
22 adequately address the issues raised in the order to show cause on or before November 30, 2020,  
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1 the undersigned would recommend denial of her *in forma pauperis* application (Dkt. 1) and  
2 dismissal of this action without prejudice. *See* Dkt. 4, at 10.

3 Plaintiff has taken no action in response to the Court's order to show cause. Therefore,  
4 the undersigned recommends that plaintiff's *in forma pauperis* application (Dkt. 1) be **DENIED**,  
5 that this matter should be **DISMISSED** without prejudice, and that all pending proposed motions  
6 (Dkts. 6, 7, 8, 9) be stricken from the docket.

7 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have  
8 fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P.  
9 6. Failure to file objections will result in a waiver of those objections for purposes of *de novo*  
10 review by the district judge, *see* 28 U.S.C. § 636(b)(1)(C), and can result in a result in a waiver  
11 of those objections for purposes of appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *Miranda v.*  
12 *Anchondo*, 684 F.3d 844, 848 (9th Cir. 2012) (citations omitted). Accommodating the time limit  
13 imposed by Rule 72(b), the Clerk is directed to set the matter for consideration on **December 25,**  
14 **2020**, as noted in the caption.

15 Dated this 8th day of December, 2020.

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18 J. Richard Creatura  
19 United States Magistrate Judge  
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